

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of MIKAILA MARIE  
STACKPOOLE, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NICHOLAS DURKA,

Respondent-Appellant.

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UNPUBLISHED

November 14, 2006

No. 269561

Macomb Circuit Court

Family Division

LC No. 2004-5742421-NA

Before: Fort Hood, P.J., and Murray and Donofrio, JJ.

MEMORANDUM.

Respondent appeals as of right from the order terminating his parental rights to his minor child pursuant to MCL 712A.19b(3)(a)(ii), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that the termination of his parental rights violated his constitutional right to parent his child. While “[p]arents have a significant interest in the companionship, care, custody, and management of their children, and the interest is an element of liberty protected by due process,” *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003), once petitioner presented clear and convincing evidence of at least one statutory ground for termination, respondent’s liberty interest no longer included the right to the custody and control of his child. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000).

The evidence clearly established that respondent deserted his child for more than 91 days and failed to seek custody of her during that time. MCL 712A.19b(3)(a)(ii). Respondent did not visit or contact his child and refrained from participating in reunification services because he did not believe that he was the father. Termination of respondent’s parental rights was also appropriate under MCL 712A.19b(3)(g) and (j). Respondent’s failure to visit his daughter during this matter, and his failure to provide child support, constitutes a failure to provide proper care and custody within the meaning of MCL 712A.19b(3)(g). Respondent’s lack of participation throughout the matter suggests that he will not be able to provide such care within a reasonable time. The evidence of respondent’s abandonment of his daughter, and his history of domestic violence, supports the trial court’s finding that there was a reasonable likelihood that the child would be harmed if returned to respondent’s care. MCL 712A.19b(3)(j).

Respondent next contends that the trial court clearly erred in finding that petitioner made reasonable efforts to reunite him with his daughter. Respondent was personally served on October 25, 2004, but failed to appear until September 29, 2005. When respondent did appear in court, almost one year after the court took temporary custody over the minor child, he was going to release his parental rights. However, this did not happen, and, subsequently, paternity was established. Once respondent learned that he was the child's father, he argues that he was willing to cooperate with the services offered to him. This Court has noted that "[t]he family court's jurisdiction is tied to the children, making it possible, under the proper circumstances, to terminate the parental rights even of a parent who, for one reason or another, has not participated in the protective proceedings." *In re CR*, 250 Mich App 185, 205; 646 NW2d 506 (2002). The delay of respondent's involvement in the case was because of his own decision not to be involved. Therefore, respondent's argument lacks merit.

Affirmed.

/s/ Karen M. Fort Hood  
/s/ Christopher M. Murray  
/s/ Pat M. Donofrio